

TEXT OF PROPOSED REGULATIONS

In the following text:

Single underlining indicates original added text

Double underlining indicates added or amended text to original proposed text

Double strikeout indicates deleted original proposed text

Title 15. Crime Prevention and Corrections

Division 8. California Prison Industry Authority

Chapter 1. Rules and Regulations of California Prison Industry Authority

Article 6. Personnel

Add section 8106.1 to read:

8106.1 Substance Abuse Testing.

(a) A CALPIA employee that is tested for substance abuse pursuant to Section 599.962 of Title 2 in the California Code of Regulations (CCR), shall be concurrently tested for additional substances not listed in subsections 599.963(b)(1) through (9) of Title 2 in the ~~California Code of Regulations~~(CCR). The additional substances are detailed in subsection (b) of this section. The following California Department of Human Resources (CalHR) regulations continue to apply to CALPIA employees and will be followed: Title 2 CCR sections 599.960(a), (b)(1) - (2), (c), and (d); 599.961; 599.962; 599.963 (a) - (g), except as provided in subsection (c) of this section; 599.964; 599.965; and 599.966. Title 2 CCR section 599.963 (h) applies to CALPIA employees who possess a commercial driver's license and is administered through CDCR's Office of Employee Wellness. Random test draws are generated by CalHR. CALPIA does not have regulations to conduct its own random drug testing at this time. Title 2 CCR section 599.960(e) and (f) do not apply to CALPIA because CALPIA does not employ Peace Officers.

(b) CALPIA employees meeting the criteria in subsection (a) of this section shall be concurrently tested for the following substances at specified cut-off levels:

	<u>Initial test level (ng/mL)</u>	<u>Confirmatory test level (ng/mL)</u>
(1) Buprenorphine &/or Metabolite	5	2
(2) Butorphanol	100	100
(3) Clonazepam Metabolite	300	300
(4) Fentanyl	300 pg/mL	500 pg/mL
(5) Flunitrazepam Metabolite	300	300
(6) Flurazepam Metabolite	300	300
(7) Hydrocodone	300	300
(8) Hydromorphone	300	300
(9) Ketamine &/or Metabolite	100	100
(10) Lorazepam	300	300
(11) Lysergic acid diethylamide (LSD)	.5	.2
(12) Meperidine &/or Metabolite	100	100
(13) Meprobamate	200	100
(14) Methadone	300	300
(15) Methylenedioxyamphetamine (MDA)	250	200
(16) Methylenedioxyethylamphetamine (MDMA/MDEA)	250	200
(17) Midazolam Metabolite	300	300
(18) Nordiazepam	300	300
(19) Oxycodone	100	100
(20) Oxymorphone	100	100
(21) Pentazocine	100	100
(22) Propoxyphene Metabolite	300	300
(23) Temazepam	300	300
(24) Tramadol	100	100
(25) Triazolam Metabolite	300	300
(26) Zolpidem	100	100

(c) Substance testing procedures for subsection (b) of this section shall be conducted as follows:

- (1) Test samples will be collected pursuant to subsections 599.963 (e), (f), and (g) of Title 2 in the California Code of Regulations.
- (2) Laboratories performing urinalysis under this section and subsections 599.963(b)(1) through (8) of Title 2 in the California Code of Regulations shall utilize an immunoassay screening test and all positive screening results shall be confirmed utilizing gas or liquid chromatography/mass spectrometry.

(3) Validity testing will be performed on urine samples to determine: consistency with normal human urine, whether certain adulterants or foreign substances were added to the urine, if the urine was diluted, or if the specimen was substituted. Validity testing will be performed in compliance with ~~49 Code of Federal Regulations, Sections 40.89 through 40.96. Test results indicating urine sample is substituted, adulterated, diluted, or tampered with shall be reported as positive. This subsection also applies to urinalysis performed pursuant to subsections 599.963(b)(1) through (8) of Title 2 in the California Code of Regulations.~~ the following sections of 49 Code of Federal Regulations:

Section 40.89 (73 FR 35970, June 25, 2008)

Section 40.91 (69 FR 64867, Nov. 9, 2004)

Section 40.93 (69 FR 64867, Nov. 9, 2004)

Section 40.95 (73 FR 35970, June 25, 2008)

Section 40.96 (73 FR 35970, June 25, 2008)

Test results indicating urine sample is substituted, adulterated, diluted, or tampered with shall be reported as positive. This subsection also applies to urinalysis performed pursuant to subsections 599.963(b)(1) through (8) of Title 2 in the California Code of Regulations.

(d) If a suspected employee attempts to impede or impedes any part of the testing process, he or she will be disciplined, up to and including, termination from civil service. For the purposes of this subsection, impede means the following:

(1) Refusal to cooperate or participate in any part of the testing process

(2) Failure to provide at least 45 mL of urine. Failure occurs 60 minutes after being directed by lab personnel to produce urine and a required medical evaluation determines there was no adequate medical explanation for the failure.

(3) Any other act by the employee which could prevent, interfere with, or defeat the purpose of testing.

(e) All positive test results shall be cause for discipline, up to and including, termination from civil service.

(f) Confirmed positive test results shall be subject to the Medical Review Officer provisions of 599.965 of Title 2 in the California Code of Regulations.

~~(g) Any dispute over the standards and procedures listed in this section will be decided by CALPIA.~~

(g) ~~(h)~~ Employees suspected of substance abuse, pursuant to subsection (a) of this section, will be entitled to all rights prescribed in section 599.964 of Title 2 in the California Code of Regulations.

~~(h) ~~(i)~~~~ All records of the circumstances and results of an employee testing under this section shall be maintained and processed pursuant to section 599.966 of Title 2 in the California Code of Regulations.

Note: Authority cited: Sections 2801, 2808, and 2809, Penal Code. Reference: Sections 2801, 2808, and 2809, Penal Code, Executive Order D-58-86 (dated September 24, 1986), Code of Federal Regulations, Title 49, Part 40, Subpart F, ~~Sections 40.89 through 40.96, Federal Register, Volume 73, No. 228 dated (November 25, 2008).~~ Section 40.89 (73 FR 35970, June 25, 2008), Section 40.91 (69 FR 64867, Nov. 9, 2004), Section 40.93 (69 FR 64867, Nov. 9, 2004), Section 40.95 (73 FR 35970, June 25, 2008), and Section 40.96 (73 FR 35970, June 25, 2008)